

2014 Arbitration Awards - Minnesota B.M.S.

May 11, 2016

Summary of Arbitration Awards listed on the Bureau of Mediation Services' web site (<http://www.mn.gov/admin/bms/arbitration/awards/>).

"Sustained" means the grievance prevails overturning the original action. "Denied" means the original action prevails.

December, 2014

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|------------|--|--------------------|-------------------|--|---|---|
| 14-PN-1156 | Anoka County (Interest Award) Law Enforcement Labor Services, Inc. | Miller, Richard | Interest | Investigators. 2 yrs-e (u-3yrs). Wages: 0%, 0%-e (u-3%, 3%); Range minimum 2%, 2%-e (u-3%,3%). Merit 2%,2%-both. | 2014 - 0% 2015 - 0% | Duration-internal, Wages-intrnl&extrnl. Small groups follow rather than lead. ER's obligation to efficiently manage = financial constraint vs inability to pay. |
| 14-PN-0892 | Beltrami, County of (Interest Award) Teamsters Local 320 | Jacobs, Jeffrey | Interest | Attorneys. Wages-e (both agreed to %, step 17 vs 18 awarded - 7% difference for 3 yrs-e). Court prep time-n-e; Clothing allowance-n-e; Increase longevity-n-e. | 2014 - 1% 2015 - 2% 2016-1.5/1.5% | Wages-pattern based on implementing Springsted study. Court & clothing new benefits lacking need or quid pro quo. Longevity internal, tied to investigators. |
| 14-PA-0862 | Duluth, City of AFSCME Council 5 | John W. Boyer | Call Out Overtime | U challenged city's right to use stand-by crews for sewer emergencies vs most senior sewer workers. Timeliness-sustained | Denied | U cited past practice, but both contract & policy changed. 3 arbitrations on same issue. See Jacobs & O'Toole-Jan. 2015. |
| 14-PN-1305 | Lakeville, City of (Interest Award) Law Enforcement Labor Services, Inc. | Anderson, Richard | Interest | Officers. Wages 2014-2%-e (u-3%), 2015-3%-u (e-2%). | 2014 - 2% 2015 - 3% | No pattern. Sgts received 3% & 3%. Award maintains historic differential. |
| 14-PA-0810 | Minnesota Court System, Judicial Branch AFSCME Councils 5 and 65 | Neigh, Charlotte | Termination | Senior Court clerk improperly accessed data in the DVS system. | 10 day susp. | 26 ees improperly used system-only 7 disciplined-3 terminated. ER failed to show why this ee was more egregious. |
| ??? | Minnesota, State of, Board of Psychologists Minnesota Association of Professional Employees | Befort, Stephen | Layoffs | Reorganization-2 investigators layed off. Sr. Invst. hired. Terminations in disguise? | Denied | Anticipation of likely shortage of funds & legitimate reorganization - permissible basis for layoff. No evidence of Termntn. |
| FMCS | North Memorial Health Care SEIU Healthcare Minnesota | Fogelberg, Jay | 3 day suspension | Custodian & female ee were in an office w/o authorization. Not truthful in investigation. | 1 day susp. | Disparate treatment - other ee received 1 day; & credited for 25 yrs. of service. |
| 14-PA-0568 | University of Minnesota-Duluth University Education Association | Schiavoni, Mary Jo | Promotion | Did ER apply a new criterion unknown to U for promotion to tenured professor by citing insufficient publications? | Denied | Not necessary to have an express # established to evaluate substantive & quantitative publishing record. |

November, 2014

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|------------|--|-----------------|----------|---|----------------------------|--|
| 14-PN-1086 | Anoka County Law Enforcement Labor Services, Inc. | Lundberg, James | Interest | Work Release. Uniforms-+\$50-u (e-no change); Add shoes to allowance.-no-e; Wages-1.5%, 1.5% (u-3%,3%; e-0%,0%; Merit -2%,2%-e (u-3%,3%). | 2014 - 1.5% 2015 - 1.5% | Uniform-increase based on replacement cost. Color is only shoe requirement so no additional expense. Wages-external. Merit - internal. |

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|--|---|---------------------|-------------------------------|--|----------------------------|---|
| 14-PN-0203 | Blue Earth County (Interest Award) Minnesota Public Employees Assn | Miller, Richard | Interest | Corrections:Sick leave-Statute language w/o 160 hr limit-u; Wages-ER (u seeking 2.5%+2.5%mkd adj ea yr., drop bottom step, add 2, 3%steps to top.). Lead worker from \$2.50 to \$4/hr.-u. Shift diff \$.25-u Outside POST lic part-time employment-n-e | 2014 - 2.5% 2015 - 2.5% | Sick language-no pattern. Wages-both internal & external (discussion-Statutory salary appeal vs Arbitration). Lead pay-same as Deputies&dispatch. Shift pay-new benefit-majority of market. Part-time-management right (liability concern). |
| FMCS | Group Health, Inc. Office and Professional Employees Local 12 | Gallagher, Thomas | FMLA | Can FMLA be charged concurrently with other contract benefits? Yes. | Denied | ER has statutory right to run FMLA concurrently & no obligation to negotiate. |
| 149PA91301 | Metropolitan Council (Metro Transit) Transit Managers & Supervisors Ass. | Lundberg, James | Termination | Supervisor submitted false report re his actions prior to train derailment. Also false report at Lodermill hearing. | Denied | Dishonesty so egregious discharge is only appropriate remedy. Short term ee, just off probation. |
| ??? | Minneapolis, City of Police Officers' Federation | Fogelberg, Jay | 32 day susp. | Officer given 10day susp for DOC, 6mo. later arrested for DUI-given 32 day susp. | 10 day susp. | 32 days reduced due to 25yrs service & disparate treatment vs. other DUI's. |
| 14-PA-0978 14-PA-0989 14-PA-1054 | Ramsey County Law Enforcement Labor Services, Inc. | Bard, Stephen | Insurance - premium reduction | Combined grievance for 3 units. 2014 insurance premium went down. U seeking 100% of savings - but is not in contract. | Denied | ER used formula for increases (75/25) to determine ees share. Reasonable & a management right if language is lacking. |
| FMCS | Ramsey Excavating Company Construction and General Laborers, Local 563 | Daly, Joseph | Pre-employment test | ER used an isokinetic test to determine physical capability prior to hire. Union challenged that it was not negotiated. | Sustained | Union is hiring hall despite language - due to 50% requirement. U applicants are ees so testing must be negotiated. |
| 14-PN-0713 | Sherburne County (Interest Award) Law Enforcement Labor Services, Inc. | Moeller, Lon | Interest | Corrections. Remove June restriction on bidding-n-e. Travel time for call back-n-e. Training travel pay-y-u. '14-2%-e (u-12%) 15-2%-both. Change range mvmnt-n-u. Bar grievances re range movement-n-u. | 2014 - 2% 2015 - 2% | Wages-internal pattern. Travel time issues explore FLSA & Imada v City of Hercules (9th Circuit Ct). Call back-not on-call, not mandatory. Training-covered in policy. Other requests-not compelling |
| 14-PN-0549 | Sherburne County (Interest Award) Law Enforcement Labor Services, Inc. | Crump, Harry | Interest | Supervisors. 2014-2%-e (u-3%+1%July market. adjustment), 2015-2%-e (u-3%); Increase: Longevity PTO; IOD; & Insurance-no-e; rewrite insurance benefits, remove "me too" & assign benefit committee to design ACA plan & 2015 rates-y-e. | 2014 - 2% 2015 - 2% | Wages & Insurance - internal pattern. Benefit increases sought by u lacked compelling reasons or quid pro quo. ER had compelling need for changes to insurance benefit language, unlike Benton County arbitration August 2014 |
| 14-PA-0719 | University of Minnesota-Duluth Teamsters Local 320 | VerPloeg, Christine | Posting O.T. | ER failed to post "ice making" OT. OT awarded to ee working different location. | Denied | Long time practice of verbally notifying most senior for OT. Never based on loc. |

October, 2014

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|------------|---|--------------------|------------------|---|------------------|---|
| 14-PA-0814 | Austin, City of United Auto Workers Local 867 | Vernon, Gil | Job Vacancy | Ee was not given "Trimmer/Chipper" position . Contract allows 30d to qualify. | Denied | Ee lacked 3 yrs experience-not qualified. Could have used 30d for hazard training. |
| 14-PA-0812 | Austin, City of United Auto Workers local 867 | Vernon, Gil | Out of Title Pay | Street worker using chainsaw seeking "Tree Trimmer" pay. | Denied | Chainsaw is not exclusive to "Trimmers" no past practice of additional pay. |
| 14-PN-1211 | Clearwater County (Interest Award) Teamsters Local 320 | Miller, Richard J. | Interest | Communications/Corr. 2014 reopener Insurance \$838-u, (u-\$850, e-\$829). Ees in Teamster's Insurance plan. | Union's position | Contract 2013-2015. Pattern 50% incr. & full single. U plan blends single/family kept 65/35-1yr. (ER saves vs own Insur.) |

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|------------|--|--------------------|---------------------------------------|--|------------------------|--|
| 13-PA-0861 | Forest Lake, City of Law Enforcement Labor Services, Inc. | Jacobs, Jeffrey | O.T. for Training Flex scheduling/ | ER flexed officer's schedule to reduce overtime for training. | Denied | Contract does not limit flexing. U can't repudiate practice that's a mngmnt right. Detailed discussion on past practice. |
| 14-PA-1270 | Isanti, City of Law Enforcement Labor Services, Inc. | Paull, David S. | Tuition reimbursement | Officer requested approval for an entire college degree program. Denied based on budget concerns (cost \$20,000). | Sustained | Despite language requiring approval to be eligible for reimbursement, denial based on budget violates contract. |
| 14-PA-1159 | ISD 709, Duluth Firemen & Oilers Local 956 | Toenges, Rolland | MOA impact on Contract | EE's promotion rescinded due to Union challenge. MOA returned ee to position as bus driver w guarantee of 8 hr days. Seeking snow day pay based on 8hr. guarantee. | Denied | Bus drivers are not paid for not working bad weather days. Request inconsistent with contract. |
| 14-PA-1165 | Metro Transit Amalgamated Transit Union Local 1005 | Krueger, Dennis | OT and Unit Work | Light rail mechanic working OT did cleaner's work. | Sustained | Employees can work "down" during their regular shift but contract governs OT |
| ??? | Minneapolis, City of Electrical Workers Local 292 | Bognanno, Mario | Timeliness | Arbitrability regarding 2 termination grievances filed after contracts 21 day timeline when City continued meeting. | Denied | U argued "equitable relief" & "collateral estoppel"- no. Exploring merits is not a waiver of an untimely grievance. |
| 14-PA-0239 | Minnesota, State of, Perpich Center for State Residential Schools Education Association | Imes, Sharon | 3 day suspension | Teacher failed to update students online academic progress report. | 1 day susp. | Updates required under Section 504. Prior oral and written reprimands. |
| 14-PN-0525 | Minnesota, State of, Unit 1 (Interest Award) Minnesota Law Enforcement Association | Schiavoni, Mary Jo | Interest | Troopers/BCA/DNR. Wages-e (u-delay 3% until 5th pay period each yr.+2% 25th pay period 2015) | 2014 - 3% 2015 - 3% | Internal equity, public policy & other economic factors. U proposal cheaper 1st 2 yrs. But adds \$2 million rollup cost. |
| FMCS | Northern States Power Company d/b/a Electrical Workers Local 949 | Fogelberg, Jay | Termination | EE at nuclear plant fired after discovery he lied on job application re drug use. Tried to introduce new charge at hearing re military record. | Sustained | Question was vague; EE admitted trying marijuana, but did not "use" it. "After-acquired evidence" can be used, but it was also failed due to a vague question. |
| 15-PA-0036 | Sherburne County Minnesota Public Employees Assn | Miller, Richard | Termination | Corrections officer ate a snack cake while stocking a vending machine. | Denied | Even a small theft by a long-term good ee constitutes just cause for termination. |
| FMCS | Twin Cities Public Television Broadcast Employees Local 57411 | Fogelberg, Jay | Seniority Selection | Contrct requires hiring frm seniority pool if qualified. Grievant did the work before. | Denied | Special circumstance exception. EE lacked personal skills for assignment. |

September, 2014

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|------------|---|--------------------|-----------|---|----------------------------|---|
| 13-PA-0712 | Breezy Point, City of Law Enforcement Labor Services, Inc. | Schiavoni, Mary Jo | Holidays | ER changed schedule so they did not need to pay for Holidays not worked - based on scheduling authority language. U waited 1yr after filing for arbitration before selecting an arbitrator. | Sustained | Authority granted under one provision cannot be used to undermine another. Arbitrator Wallin, St. Francis, June 2010 ruled differently. |
| | | | Timelines | | Sustained | No time restriction in contract. |
| 14-PN-0820 | Crystal, City of (Interest Award) Law Enforcement Labor Services, Inc. | Johnson, John | Interest | Officers. Wages 2014-2%-e (u-3%); 2015-2.5% (e-2%, u-3%). 2014 Market Adjustment of 2%-n-e. | 2014 - 2% 2015 - 2.5% | 2014 internal with only 1 settlement. For 2015 external (note: city did budget 2.5% for 2015.) |
| 14-PN-0643 | Golden Valley, City of (Interest Award) Law Enforcement Labor Services, Inc. | Toenges, Rolland | Interest | Sergeants. '14-2.5%-e (u-2.5%+4% adjustment) '15-2.5%-both. Court 6 hr. minimum-n-e, Call in to wrk Hol 2x-no-e | 2014 - 2.5% 2015 - 2.5% | Wages-internal pattern. Sgts seeking 4% mrkt adjustment officers received - study didn't warrant one. Negotiate other items. |

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| 14-PN-0534 | Hibbing, City of Minnesota Association of Professional Employees | Miller, Richard J. | Interest | '14-\$.80/hr-u (e-1.5%); '15-2%+\$.30-u (e-1.5%); '16-2.25%+\$.30-u (e-1.75%). Longevity bonus for all in 2014 of 1%-u. Insurance & VEBA-positions the same. Increase Severance& Layoff notice-no-e; Police & Fire Chief Uniforms-n-e. | 2014 - \$.80/hr 15-2%+\$.30/h 16-2.25%+.30 | Historical relationship w AFSCME. MAPE=9.63% vs AFSCME 10.57%. Severance-1 part of request differed from AFSCME + expense. Layoff currently is same as AFSCME. Uniforms-no requirement to wear them. |
| 14-PA-1354 | ISD 278, Orono School Service Employees Local 284 | O'Toole, Carol | Timeliness | Union missed time line. ER denied grievance but had a settlement discussion. | Denied | Settlement discussion was not a waiver of time line but a good faith effort by ER. |
| 14-PA-0957 | ISD 485, Royaltan Royaltan Federation of Teachers | Stephen Befort | 5 day suspension | Teacher scheduled vacation trip on a day of parent-teacher meetings. | Denied | U claimed discipline was too severe but ee told she would get 5 days if absent. |
| FMCS | 3M Company United Steelworkers Local 11-418 | Gallagher, Thomas | 3 day suspension | Violation of absence policy that counts sick usage as an occurrence. Practice changed to resolve grievance w Local 70. | Denied | 29 yr practice. Local 70 doesn't have manufacturing ees whose attendance is more critical. Any change must be neg. |

August, 2014

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------------------|--|-------------------|--------------------------------|---|--|---|
| 14-PN-0711 | Benton County Law Enforcement Labor Services, Inc. | Gordon, Paul | Interest | Deputies: 2yrs-u (e-3y); '14-1%-e (u-3%) 15-1%Jan+.25%July-e (u-3%); Incr Shift Diff-n-e; Change OT-n-u; Change Hol. for p.t.& premium pay-n-u; Incr Vac bank-n-e; ACA insurance reopener-n-u. | 2014 - 1% 2015 - 1.25% | Duration-ER offered no incentive for extra yr. Wages-intrnl pattern/pay equity. compliance. All other items failed due to lack of compelling reason or quid pro quo necessary for a change. |
| 13-PA-0560 14-PA-0313 | Blaine, City of Law Enforcement Labor Services, Inc. | Anderson, Richard | Promotion Role of Seniority | Officer who scored highest for sgt. & w seniority passed over 2 separate times. | Denied | Seniority only trumps equal qualifications. Those selected - leadership experience. |
| 14-PN-0367 | McLeod County (Interest Award) Minnesota Public Employees Assn. | Johnson, John | Interest | Deputies. 3yrs-e (u-2yrs); retro pay to current ees only-e; COLA-0% each yr-e (u-2%/yr.), Range-2%+\$0.20/hr ea yr-e (u-3%/yr.); 3% for BA-n-e; Incr Invst pay-no-e; ERU, Trainer, &Longevity pay-n-e; Major Hol 2Xpay-n-e, Tuition reimbrs-n-e FLSA OT-n-u; Sick tied to FMLA-n-u. | 2014- 2%+.20 2015- 2%+.20 2016- 2%+.20 | Wages - internal pattern. All other items lack either a compelling reason for the change or any offer of a quid pro quo. |
| 13-PA-0933 | Met Council Teamsters Local 320 | Jacobs, Jeffrey | K-9 Selection | E-assignments not restricted by contract. U-transfers are governed by seniority. | Denied | Transfer, but, seniority clause modified by - only "if skills are equal". Also did not meet 50 mile requirement. |
| 14-PA-0436 | Oakdale, City of Law Enforcement Labor Services, Inc. | Reynolds, James | Shift bidding | Er held back 3 shifts from bid to train new officers. Violation of seniority bid?-no. | Denied | Different than Sauk Rapids (Jan 2014). Bid seniority restricted to after 18 mo. |
| FMSC | Rock-Tenn CP LLC United Steelworkers Local 1259 | Gallagher, Thomas | Seniority selection | Seniority if qualifications equal. Union challenged experience not obtained at this plant. | Denied | Allowing ee 20 days to qualify for a position doesn't trump selection criteria. |
| FMCS | Xcel Energy, Inc. Electrical Workers local 949 | Daly, Joseph | Termination | Ee caught with Dremel grinding wheels in his lunch box. | Sustained | ER did not show clear & convincing evidence the intent to steal. |

July, 2014

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|------------|--|-------------------|------------------------------|---|--|--|
| 14-PN-0551 | Benton County (Interest Award) Teamsters Local 320 | Jacobs, Jeffrey | Interest | Dep/Sgts/Lts, 2014-16. Agreed to wage & insurance pattern at hearing(% unk.) Mkt adj.-n-e; OT, Hol., Uniform changes-n-u; Affordable Care Act compliance-y-u. | | Market adj.-insufficient evidence. OT, Hol., Uniform changes-lack compelling need or quid pro quo for changes. ACA language guarantees no reduction. |
| 14-PA-0351 | Hennepin County AFSCME Minnesota Council 5 | Kapsch, Francis | 3 day suspension | Family Court Mediator/Evaluator on performance plan-unsatisfactory reports. | Denied | Prior 1 day suspension. Documented failures in performance plan. |
| 14-PA-0946 | ISD 271, Bloomington Bloomington Federation of Teachers | Jensen, Eugene | Pay for added duties | Pre-school teachers requested pay for assessment reporting & attending PLCs. | Sustained | ER claimed prior approval necessary to pay for extra hrs. Requirement to do work in essence is approval. |
| 14-PA-0315 | ISD 550, Underwood Underwood Education Association | Gallagher, Thomas | Placement on Salary Schedule | New teacher hired at step 13. Contract sets maximum level at step 6. U seeking declaratory award re meaning of contract. | Renegotiate language. | ER claims limit only applies to ees with less than 6 yrs. outside experience. Insufficient evidence-must renegotiate. |
| 14-PA-0720 | ISD 695, Chisholm Education Minnesota - Chisholm | Lundberg, James | Sick Leave Buy Out | Did ee give 60 day notice of retirement to qualify for sick leave buy out - yes | Sustained | Notice must be in writing - email ok. Intent to retire without specific date ok. |
| FMCS | Joiners Apprenticeship and Journeymen OPEIU Local 12 | Daly, Joseph | Termination | Office manager lied, failed to cooperate & asked subordinate to cover for her.re invest. | Sustained | 29 yrs no discipline. "Case of leaping to conclusions too soon." |
| ??? | Minneapolis, City of Teamsters Local 320 | Lundberg, James | Timeliness Shift Duration | U-clock starts when change takes place. 911 supervisors' shifts changed 10 hrs. to 8 hours. Contract lists 10 or 8.25hr shifts. | Sustained Sustained | ER claimed time starts upon notice. ER can modify work day configurations (24hr periods) but not length of shifts. |
| 14-PN-0399 | Minnesota, State of (Interest Award) Minnesota Nurses Association | Fogelberg, J. C. | Interest | Add 4% top & eliminate one step each yr-n-e; Increase shift diff-n-e; \$1,500/yr training-n-e. Wages not arbitrated-3%, 3% internal pattern negotiated. | State's Position | Market adjust-can't compare to hospital nurses. Shift diff-internal pattern (already \$.05 higher than others). Training-free training available-no compelling reason. |
| 14-PN-0356 | Pioneerland Library System (Interest Award) AFSCME Minnesota Council 65 | Jacobs, Jeffrey | Interest | Wages: U seeking 2%+steps each yr. E-1%,no steps-offered 2% if no steps-e Add Floating Holiday-n-e. | 2014 - 2% 2015 - 2% | Wages-ER offer at hearing. Exceeds pattern of non-union. Floating Hol.-no compelling reason nor quid pro quo. |
| 14-PN-0040 | St. Paul, City of (Interest Award) St. Paul Police Federation | Fogelberg, J.C. | Interest | '13 April-1%, Oct.-0.5%-e (u-3% split); '14 April-2%-e (u-3.6% split); '15 Apr.-2.75%-(e-2% Apr.) (u-4.1% Jun/Dec) | 2013 - 1.5% 2014 - 2.0% 2015 - 2.75% | '13,'14-pattern.'15 exceeds pattern+.75%. Over 20y only 2 P.D. contracts reflected internal pattern. Used Mpls. comparison. |

June, 2014

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|------------|--|-----------------|----------------------------------|---|------------------------|---|
| 14-PN-0563 | Canby, City of Law Enforcement Labor Services, Inc. | Imes, Sharon | Interest | Wages 2014-2%-u (e-1.5%), '15-2%-u (e-1.5%). Limit comp accrual to 120hrs.-n-u; VEBA-n-e (u: s-1,000, f-2,000) | 2014 - 2% 2015 - 2% | Wages-internal pattern. Comp-no limit in contract. VEBA negotiated out of contract. Changes require quid pro quo. |
| 14-PA-0717 | Hennepin County AFSCME Minnesota Council 5 | Kircher, Andrea | Training Time Termination | Seeking return of Vac used to attend training session. Fraud investigator insubordinate & un-cooperative. Co Attorney refused to accept his cases. | Denied Denied | Training was denied as not relevant so ER not obligated to pay. 15 yr ee, with only prior written rprmd & 1 day suspension, but yrs of counseling & intimidating behavior provide cause. |

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|------------|--|---------------------|-----------------------------|--|---------------------|---|
| 08-PN-0752 | ISD 100, Wrenshall Education Minnesota | VerPloeg, Christine | Health Insurance | Should district pay balance of family insurance when spouse works for district? | Sustained | Contract calls for up to \$1,130 per ee per month for family coverage. |
| 14-PA-0454 | ISD 199, Inver Grove Heights Education Minnesota Inver Grove Heights | Befort, Stephen | Flexible Work Day | Middle school start 10m before arrival. Elementary end time. | Denied Sustained | Bus arrival or class start? - Bus arrival. No change from longtime practice. |
| 14-PA-0684 | ISD 696, Elv AFSCME Minnesota Council 65 | Anderson, Richard | Termination | Custodian casually touched and made comments to female teachers which made them uncomfortable. | 90 day susp. | Violated sexual harassment policy. 26 yr. ee - 10 yrs. since last discipline. Showed remorse. |
| FMCS | Jefferson Lines Amalgamated Transit Workers 1498 | Beens, Richard | Timelines Bumping Rights | Ee bumped from route - "board" drivers did route for 2 weeks till sr. driver started. Manager refused to meet with ee. | Split | Bumped driver should have kept route until senior actually took it over. ER, not Union violated timeline. |
| ??? | Minnesota State Colleges & Universities Minnesota State College Faculty | Kircher, Andrea | Hiring practice | Contract requires that 70% of staff be "unlimited full time faculty". | Sustained | Upgrade 68 positions. Difficult balance teachers/funding doesn't trump contract. |
| 13-PA-1022 | Ramsey County Teamsters Local 320 | Bognanno, Mario | 3 day suspension | Correctional Officer failed to respond to Code 1 because his shift was ending. | 1 day susp. | Reduced to 1 day - lack of progressive discipl. Removed as FTO and acting LT. |

May, 2014

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|------------|---|-------------------|------------------|--|--------|--|
| 14-PA-0303 | McLeod County ASFCME Minnesota Council 65 | Jacobs, Jeffrey | Job Reevaluation | ER failed to implement grade increases consultant recommended for 3 positions. | Denied | Increases are subject to board approval. Notice given to Union during negotiations |
| 14-PA-0562 | Metro Transit Amalgamated Transit Union 1005 | Gallagher, Sharon | Unit Work | Supervisors removed pea gravel from light rail track for safety reasons. | Denied | Past practice. No clear contract language |

April, 2014

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------------------|---|---------------------|---------------------------------------|---|-----------|--|
| 13-PA-0148 13-PA-0581 | Blaine, City of (See Court Order) Law Enforcement Labor Services, Inc. | Crump, Harry | Written Reprimand 4 day suspension | On-call detective worked OT traffic detail w/o obtaining fill-in for on-call. Grievance on written rprimd contained lies by grievant. | Denied | Making false statements is stigmatizing so clear and convincing burden of proof was applied and met. |
| | Blaine, City of (Court of Appeals) | Court of Appeals | Public Policy on Grievances | Union challenged Harry Crump's award in District Court - award confirmed. Court of Appeals affirmed District Court. | Affirmed | U-claims discipline re alleged lies in grievance petition conflicts w PELRA's public policy re grievance arbitration-no. |
| 13-PA-0898 | ISD 22, Detroit Lakes Education MN, Detroit Lakes ESP | Stephen Befort | Arbitrability | Can at-will para's termination be grieved if no contract in place? | Sustained | BMS grievance procedure governs. Detailed analysis of BMS rules. |
| 14-PA-0132 | ISD 316, Greenway Education Minnesota, Greenway | VerPloeg, Christine | Unilateral re-assignment | To fill a vacancy 3 teachers moved w/o posting. ER-position=area of licensure (elementary ed.). U=current assignment. | Sustained | Position is unique to a person. District's interpretation would nullify Emergency Transfer language. |
| 14-PA-0914 | ISD 706, Virginia Virginia Education Association | Boldt, Charles | Right to alter school calendar | Does district have unfettered right to add days due to emergency closing? - no. | Sustained | Can add student days if they fall below 175, but contract controls in-service days |
| 14-PA-0147 | University of Minnesota ASFCME Minnesota Council 5 | Jacobs, Jeffrey | Termination | Fraudulently claimed she was married to obtain health insurance coverage. | 11 months | U offered amnesty program where 590 in similar situation not fired. Good work record. |

March, 2014

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|------------|--|-----------------|------------------------------|--|--|--|
| 12-PA-0846 | Hennepin County Minnesota Public Employees Assn | Crump, Harry | Attendance Policy | Can ER unilaterally establish sick policy defining habitual & inappropriate use? | Denied | Mgmt. has right to adopt reasonable rules. 4 criteria for sick policy discussed. |
| 13-PA-0531 | Isanti County | Jacobs, Jeffrey | Holiday pay | Officer on IOD did not receive Holiday pay. | Denied | Past Practice. |
| 13-PA-0532 | Law Enforcement Labor Services, Inc. | | | | | |
| 13 PA 0957 | Minnesota, State of Minn. Government Engineers Council | Beens, Richard | Safety footwear | \$125 boot allowance vs requirement to provide protective equipment or clothing. | Denied | Boot allowance limits requirement to provide based on 25yrs past practice. |
| 13-VP-0772 | Minnesota, State of, Department of Veterans Affairs Individual Grievant | Jacobs, Jeffrey | Probationary & Trial periods | EE didn't pass probation; had right to a vacancy in her old class. Offered job 200m from home - refusal considered resignation. | Denied | Job same class despite some differences Offer & time to decide were reasonable. Refusal = resignation even w/o language. |
| 13-PA-0825 | Sherburne County Teamsters Local 320 | Latimer, George | 1 day suspension | Sgt. failed to pass along info at end of shift that prisoner threatened a guard. | Denied | No specific policy & report was made the following morning-but safety requires immediate reporting even w/o policy. |
| 13-PN-0299 | Sibley County Minnesota Public Employees Assn | Befort, Stephen | Interest | Deputies/Jail/Dispatch/Investigators. Wages-e (u-same general incr plus 3% merit each yr.). Comp time & accrual-no change-e; OT change for invstgrs-n-e. | 2012 - \$.40 2013 - 2% 2014 - 3% | Wages-internal pattern. Comp time - no compelling need for change (already a leader in comparison group). OT-no compelling reason. |
| AAA | Xcel Energy, Inc. Electrical Workers Local 23 | Daly, Joseph | Vacation Accrual | Does vacation accrue during a long term suspension? | Denied | Terminated employees returned to job by arbitrator with no back pay or benefits. |

February, 2014

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|------------|--|-------------------|--------------------------------|--|-----------------------------|--|
| 14-PA-0595 | Duluth, City of AFSCME Minnesota Council 5 | Befort, Stephen | Terminating Past Practice | EE called in on stand-by denied pay for travel time which had been the practice. | Denied | ER gave notice practice would cease after new contract. |
| 13-PN-0286 | Freeborn County (Interest Award) Minnesota Public Employees Assn. | Lundberg, James | Interest | Deputies. Wages-e (u '13-2%, '14-2.5%); Uniforms-no chng-e (u-+\$50); Shift pay-no change-e (u-+\$.25 hr.). | 2013 - 1.75% 2014 - 2.0% | Wages-pattern. Unfrm allowance-same as sgt's & others in region. Shift pay-same as sgt's and all others in county. |
| 14-PA-0181 | ISD 625, St. Paul Professional Employees Association | Remington, John | Termination | Architect promoted to Arch II & placed on probation. Probation extended - he did not pass probation, but no Arch I opening to return to, so he was laid off. | Sustained | Ruled a termination w/o cause. ER failed to provide required 4 mo. progress reports therefore probation was not a fair test. |
| 14-PA-0212 | Metro Transit Amalgamated Transit Union Local 1005 | Jacobs, Jeffrey | Termination | Rail operator asked for days off to help her son, was denied, then took FMLA off. | Denied | Clean record but falsification of FMLA is considered a dischargeable offense. |
| 14-PA-0316 | Metro Transit Amalgamated Transit Union Local 1005 | Krueger, Dennis | Termination | Violated no fault absentee policy - 13 in rolling 12 mos. 35 in 3 years. | Denied | Counseled 21 times in 3 yrs. |
| 14-PA-0092 | Metro Transit Amalgamated Transit Union Local 1005 | Neigh, Charlotte | Removing non-disciplinary memo | Critical memo placed in file but with no rule or policy violation cited nor w any plan or suggestion for improvement. | Sustained | Union did not seek to bar non-discipline memos, but this memo was unfair & erroneous. |
| 13-PA-0094 | Minnesota, State of MN Government Engineers Council | Gallagher, Thomas | Layoff vs Lockout | Was the State shutdown due to budget impasse a improper lockout? | Denied | Lockout is used to gain negotiating advantage. Layoff due to lack of funds. |

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| 13-PA-0702 | Roseau County Law Enforcement Labor Services, Inc. | Miller, Richard | Past Practice | Assignment of OT. Work assigned to non-bargaining unit officer. | Split | Clear contract language. Change causing grievance wasn't dealt w in new contract. Unit work limited to members. |
| 14-PA-0219 | St. Paul, City of St. Paul Police Federation | Ogata, Harley | Termination | Officer used excessive force when he sprayed ASR into suspects ear & filing an incomplete report. | 1 day susp. | Civilian Review board recommended 10 day susp. for intentionally spraying into ear, but neither city, nor video proved charge. Suspended for report. |
| 13-PN-0840 | Wilkin County (Interest Award) Minnesota Public Employees Assn. | Neigh, Charlotte | Interest | Jailer/Dispatcher. Change comparison group-n-e. Wages-2%-e (u-3%+\$1); Incr. OT accrual 40hr. to 80hr.-n-e; Uniform change "provide" to cash system-n-e; Shift pay + .25 to \$1 hr. - u. FTO pay-n-e. | 2014 - 2% | Wages-internal & external. Shift pay increase based on comp group average, No compelling reasons provided for any of the other proposals |

January, 2014

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
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| 13-PA-0659 | Crosby, City of | Remington, John | Demotion | Sgt. serving as officer's union steward | Denied | Demoted. Negligent in duties as suprv. |
| 13-PA-0660 | Teamsters Local 346 | | Termination | lied about his duties & revised his job description in negotiations. | Sustained | Returned to work. Comments made in bargaining are protected. |
| FMCS | Faribault Allina Medical Clinic AFSCME Minnesota Council 65 | Gallagher, Thomas | Travel to Training | Travel time compensation for training in the twin cities. | Denied | Neither contract nor FLSA require pay. Suprv who paid in past not authorized. |
| 14-PA-0099 | ISD 12, Centennial Minnesota School Employees Assn | Befort, Stephen | Restructuring Position. | SEIU & Paraprofessional's challenge changes made w/o negotiating. | Denied. | Work not transferred out of unit. Change de minimus. In good faith-due to budget. |
| 14-PA-0111 | ISD 194, Lakeville | Miller, Richard | Teacher Assignments | Assignments changed from prior year. 1 due to complaints; 1 to balance work. | Sustained | Despite good reasons for assignments, they did not meet contract requirements. |
| 14-PA-0112 | Education Minnesota Lakeville | | | | | |
| 13-PN-0783 | Isanti County (Interest Award) Law Enforcement Labor Services, Inc. | Miller, Richard J | Interest | Deputies: Duration-3y-e (u-2y); '13-1.5% Apr.&1.5%Jul.-e (u-1%Jan.,1%Jul.); '14-2%Jan.-e (u-1%Jan.,1%Jul.); '15-1%-e (u-2%); Insurance - e. (effective March '14 vs July 2013-u). Cell phone-no change-u. | 2013 - 3% 2014 - 2% 2015 - 1% | Duration-internal pattern. Wages & insr.-pattern. U tried to back load wages so insurance wouldn't change. Cell phone policy -no quid pro quo offered. |
| 14-PA-0103 | International Falls, City of Law Enforcement labor Services, Inc. | Ogata, Harley | 1 day suspension | Jailer failed to make timely prisoner checks as required by statute & policy. | Denied | No prior discipline but 4 memos re failed checks serve as proper notice |
| 13-PN-0782 | Lino Lakes, City of (Interest Award) Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | Sergeants. 2014-2%-e (u-2.5%). Insurance-u (full single vs. 90%; H.S.A. \$1,000/2,500 vs.\$750/\$1,500. | 2014 - 2% | Wages internal pattern. Insurance, ER has burden to show change is necessary & reasonable to reduce benefit. |
| 14-PA-0194 | Metro Transit Amalgamated Transit Union Local 1005 | Lundberg, James | Accident | Written warning, Pedestrian on Nicollet mall walked into side of bus. | Denied | Driver did not leave himself an "out", Should have anticipated situation. |
| 13-PA-0502 | Oakdale, City of Law Enforcement Labor Services, Inc. | Beens, Richard | Overtime | OT assigned, ignoring requirement to equally distribute OT. | Denied | Special assignment exception. |
| 13-PA-0748 | Sauk Rapids, City of Law Enforcement Labor Services, Inc. | Reynolds, James | Assigning Shift for Training | Can city deny bid to afternoon shift so it can be used to train probationary officer?-no. Can officers bid for regular days off? | Sustained Denied | Shift slots are reserved for School Resource officers & sgts. but no justification given for training. See Oakdale (Aug. '14) - different ruling. |

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| 14-PA-0071 | Todd County Law Enforcement Labor Services, Inc. | Toenges, Rolland | Termination | 4 accidents in 4 mo. 33 over 17yrs. Prior reprimands but only a 1 day susp. | Denied | Rules regarding driving are reasonably related to mission of Sheriff's Office. |
| 13-PN-0781 | Wilkin County (Interest Award) Minnesota Public Employees Assn. | Latimer, George | Interest | Deputies: '13-3%-e (u-3%+\$2), '14-2% e (u-3%+\$2); Chief Dep incr \$1/h-no-e; Comp accrual 40h to 80h-no-e; change uniforms from draw to cash-no-e; shift diff from \$.85 to \$1-y-u; FTO pay-n-e; SWAT premium-no-e, | 2013 - 3% 2014 - 2% | Wages - internal pattern. Shift diff raised to level comparable with surrounding counties. No compelling reason to award any other requests. |